IN THE HIGH COURT OF JUDICATURE AT BOMBAY
SIDE JURISDICTION
CRIMINAL APPLICATION NO.305 OF 2007
IN
CRIMINAL APPEAL NO.155 OF 2007

Javed Saipan Patan ...Applicant.
V/s.
The State of Maharashtra ...Respondent.

Shri S.V.Marwadi, adv. for the Applicant.
Smt.S.V.Gajare, APP for the Respondent/State.

CORAM: J.H.BHATIA, J.
DATE : 21st March, 2007.

P.C.:

1. Heard Mr.Marwadi, the learned counsel for the applicant and Ms.Gajare, the learned APP for the State.

2. The applicant was convicted for the offences punishable under section 489B and was sentenced to under go R.I. for 10 years and to pay fine of Rs.5,000/-. He is also convicted for the offence punishable under section 489C and was sentenced to undergo R.I. for 7 years and to pay fine of Rs.2,000/-. The applicant has preferred an appeal against the conviction and sentence which is admitted. By this application, the applicant seeks to be released on bail pending the appeal.

3. The prosecution case in brief is that the present applicant had given two counterfeit notes of

denomination of Rs.500/- each to one Khandu Patil. He came to know that the notes were counterfeit and therefore, he approached Crime Branch, Solapur. Thereafter personal search of the present applicant was taken and two more counterfeit notes of Rs.500/- each were found in the pocket of the present applicant. Two more persons were arrested and all the three accused were put to trial for the offence punishable under Sections 489B and 489C read with Section 34 of the I.P.C. Out of them accused nos.2 and 3 were acquitted and the present applicant, who is accused no.1 was convicted. Mr.Marwadi, the learned counsel for the applicant points out that the panch witness about the search of the present applicant did not support the prosecution and it has come on record that he was habitual panch witness working for the police. He also points out that the present applicant was on bail during the trial and there is nothing to show that he had misused the bail. Even though only two counterfeit notes were recovered from his possession and two were allegedly given by him to Khandu Patil, the learned Trial Court awarded him maximum sentence prescribed by law for the offence punishable under Section 489B and according to Mr.Marwadi, the learned trial Court did not consider the gravity of the offence before awarding sentence. Merits of the case can be looked into at the

time of final hearing of the appeal. Facts remain that the panch witness did not support the prosecution and he was habitual panch witness of the police and the present applicant was also on bail during and he had not misused the bail. Therefore, in my opinion, pending the appeal, bail may be granted to the present applicant.

4. Applicant be enlarged on bail on same terms and conditions as before the trial Court subject to his furnishing fresh bail bonds and depositing fine amount. He shall also report at Phaujdar Chawdi police station on first day of every month till disposal of the appeal.

5. Application stands disposed off.

(J.H.BHATIA, J.)